

SENATE ENVIRONMENT COMMITTEE

HEARING ON:

A LONG TERM APPROACH TO ADDRESSING THE ASIAN CARP IN ILLINOIS WATERWAYS

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Thank you for the opportunity to present testimony on this urgent crisis. My name is Henry Henderson, and I am the Director of the Midwest Program of the Natural Resources Defense Council. NRDC is a national environmental action group, combining the grassroots power of 1.3 million members and online activists with the courtroom clout and expertise of more than 350 lawyers, scientists and other professionals. The future of the Great Lakes, 20% of the world's fresh water, is a priority for our many members and our mission to protect the resources and systems upon which all life depends. Accordingly, I am pleased to be included in this important hearing on the future of our ecosystem.

Ladies and gentlemen, we have a problem.

We need to approach it properly: how we do so goes to the heart of who we are as a people, and what Illinois is as a state, and how Chicago achieves its goal to become, as Mayor Daley has repeatedly pledged, the Greenest City in America.

Asian carp threaten billions of dollars in the regional tourism and fishing industries. And more importantly, they threaten the drinking water of 40 million people and the quality of life that we enjoy in the Great Lakes region. But the invasive fish also represent a very different alarm bell that we cannot ignore. The very channel that the carp are using to swim towards Lake Michigan represents both a massive threat to our regional economy and incredible opportunity.

The Metropolitan Water Reclamation's own Supreme Court brief shows the dangers that relying on the 19th Century technology employed in our water system. The document and their public statements point out that the locks that safeguard our city have only been opened 10 times in the more than a century that the system has been in place---but 5 of those openings have occurred in the last 16 months. As the City's Climate Action Plan points out, we can expect increasing violent rain activity in the coming decades which could cause the system to reach a breaking point, and at minimum force MWRD to push untreated sewer water out into Lake Michigan, the source of our drinking water, on a much more regular basis. This is unacceptable. We must address our infrastructure and ecological needs now.

We have an opportunity to meet the threat, fix the problems and make the first truly significant progress in renewing and restoring the Great Lakes by rebuilding Chicago's transportation and water management system to set the standard for the 21st Century. It is the most propitious time to make this effort---there is a Great Lakes-basin wide consensus that the ecosystem need to be restored. There is unprecedented commitment of resources to do this; and there is consensus among all of the Great Lakes community, in this country and in Canada, that the developments in the Chicago water way present an immediate and lingering threat to the very future of the Great Lakes----That exception is Illinois...which officially is out of step and seems to feel neither the urgency of the challenge or the inclination to seize the opportunity before us

I would also point Legislators and officials to review: Sax, Joseph L. (1970). "The Public Trust Doctrine in Natural Resource Law: Effective Judicial Intervention". *Michigan Law Review* 68 (3): 471–566es under a public-trust doctrine.

So: in approaching this issue, the integrity of the state of Illinois and its ethical duty to protect the health, safety and well being of the Lake and the waters of Illinois is at the heart of the matter. This is peculiarly lost in much if the recent positions taken by Illinois officials, who seem most concerned about unrestricted use of Illinois' water ways by selected private haulers, rather than the broad public interest in safe, healthy water and a vibrant fishery worth \$7 billion annually to the Great Lakes community (not to mention potential impacts to the far larger tourism industry of Chicago and broader region). True, there are questions as to impacts of immediate and temporary actions such as closing the locks, but the State, federal, and regional regulators and authorities have simply not shown leadership in laying out alternatives or taking precautionary action at a time when the status quo has been shown to have potentially devastating consequences.

In 2007, Illinois officials reacted with great speed on behalf of the Great Lakes when the State of Indiana granted a sub-par permit to British Petroleum to increase pollution to Lake Michigan. At the time, the entire political establishment of Illinois rose up in righteous indignation to smite back the proposed pollution of the Lake. In the face of a potentially larger threat, we need to summon that sensibility in this case of "living pollution" that is moving daily toward and now into Lake Michigan through the Chicago waterway system.

It is highly ironic that the Chicago waterway system was constructed by Illinois and Chicago to keep pollution out of the Lake---and is now the highway for a devastating living pollution that can irreparably harm the Great Lakes. In a previous generation, this community looked at the facts, assessed the ongoing threat and toll of pollution, and undertook heroic efforts to fix the problem by reversing the flow of a river. We need to recover that sense of heroic possibility in the face of the real threats before us----and fix this problem.

3. What Must be Done

In the short-term, we must proactively attack this problem to prevent the fish from establishing themselves in the waterways of the Chicago Diversion and in Calumet Harbor where testing shows that the fish may have already reached Lake Michigan. As the Army Corps of Engineers tests are clearly showing, Asian carp DNA is being found in more and more dispersed Chicago waterways. The longer we dither, the greater the threat. Most of the Great Lakes advocacy NGOs believe that a short-term, temporary closure of the locks would slow the carp's advance and allow for an aggressive eradication effort to ensure the elimination of the invasive fish. While the federal authorities have promised to step up testing, press reports in Indiana today note that hundreds of eDNA tests have not been processed and waterways such as the Grand and Little Calumet Rivers have not been re-tested to evaluate the problem, even after indications of the carp's presence in Calumet Harbor. The State of Illinois must ensure that appropriate resources and urgency are brought to the table.

The more important work and opportunities for this region come from the long-term solution to the problem. Invasive species will not stop threatening until the two ecosystems are separated.

The Great Lakes NGO community has been calling repeatedly for a better airing of the issues in the form of a public, transparent, comprehensive analysis of how best to deal permanently with the problems presented by the canal and the threats illuminated by this carp saga. The effort, particularly from the federal regulators has been anything but open and efficient, as witnessed

arguably the nation's most important natural resource, and the elimination of a massive threat to the regional economy.